

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Joseph McMorris, Jr., # 264508,

Plaintiff,

v.

Omnibus Crime Reduction and
Sentencing Act of 2010
Bill #1154, 44-53-375 2nd Offense;
The State of South Carolina,

Defendants.

C.A. No. 6:11-cv-02887-JMC

ORDER

This matter is before the court on the Magistrate Judge's Report and Recommendation [Doc. 10]. Plaintiff filed the Complaint alleging a claim under 42 U.S.C. § 1983. The Magistrate Judge's Report and Recommendation, filed on October 28, 2011, recommends that the Complaint [Doc. 1] be dismissed in this case without prejudice and without issuance and service of process. The Report and Recommendation sets forth in detail the relevant facts and legal standards on this matter, and the court incorporates the Magistrate Judge's recommendation herein without a recitation.

The Magistrate Judge's Report and Recommendation is made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 for the District of South Carolina. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objections are made, and the court may accept, reject, or modify, in whole or in part, the Magistrate Judge's recommendation or recommit the matter with instructions. *See* 28 U.S.C. § 636(b)(1).

Plaintiff timely filed objections, [Doc. 12] to the Magistrate Judge's Report and Recommendation. Plaintiff does not object to the recommended disposition of his case as outlined in the Report and Recommendation. However, Plaintiff does seek clarification regarding the lower court's sentencing.

Objections to the Report and Recommendation must be specific. Failure to file specific objections constitutes a waiver of a party's right to further judicial review, including appellate review, if the recommendation is accepted by the district judge. *See United States v. Schronce*, 727 F.2d 91, 94 & n.4 (4th Cir. 1984). In the absence of specific objections to the Magistrate Judge's Report and Recommendation, this court is not required to give any explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983).

Notwithstanding the clarification request mentioned above, in reviewing Plaintiff's objections, he argues that he was charged with the same offense as other defendants, yet received a different sentence. The court finds that Plaintiff merely restates his claims that were already addressed adequately in the Magistrate Judge's Report and Recommendation..

After a thorough review of the Report and Recommendation and the record in this case, the court adopts the Magistrate Judge's Report and Recommendation [Doc. 10]. It is therefore **ORDERED** that the Complaint in the above-captioned case is **DISMISSED** without prejudice.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read "J. Michelle Childs". The signature is written in a cursive, flowing style.

United States District Judge

Greenville, South Carolina
February 23, 2012